

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	Case No. 3:04CR00023-001
v.)	
)	OPINION
COLIN F. GORDON,)	
)	By: James P. Jones
Defendant.)	Chief United States District Judge

On January 31, 2005, this court sentenced the defendant in connection with a crack cocaine conviction. In so doing, the court considered the federal sentencing guidelines as required under 18 U.S.C. § 3553(a).

Pursuant to its statutory authority, the United States Sentencing Commission has amended the advisory sentencing guidelines applicable to criminal cases involving cocaine base or crack cocaine, effective November 1, 2007. On December 11, 2007, the Sentencing Commission further decided that, effective March 3, 2008, the amended guideline provisions will apply retroactively to offenders who were sentenced under prior versions of the sentencing guidelines, and who are still incarcerated. Stated generally, the practical effect of the Sentencing Commission's actions is that certain federal defendants convicted of offenses involving crack cocaine may be eligible for a reduction in their current sentences, pursuant to the provisions of 18 U.S.C. § 3582(c)(2).

The defendant has now filed a Motion to Reduce Sentence pursuant to § 3582(c)(2).

Having considered the defendant's Motion to Reduce Sentence, the court concludes that the motion must be denied. The defendant pled guilty to conspiracy to distribute crack cocaine, in violation of 21 U.S.C. § 846, and other charges. His original total offense level was 42, with a criminal history category of VI, resulting in a sentencing range of 360 months to life imprisonment. Under the amended guidelines, his total offense level drops to 40, but his sentencing range remains the same as at his original sentencing. Because the guideline range has not changed, this court lacks authority to reduce the defendant's sentence.

Accordingly, the defendant's Motion to Reduce Sentence (Doc. No. 232) will be denied.

The Clerk will send copies of this Opinion to the defendant at his place of confinement and to the United States Attorney's Office.

DATED: October 10, 2008

/s/ JAMES P. JONES
Chief United States District Judge